

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**  
**BROWNFIELDS PROGRAMS**  
**PROGRESS REPORT**  
**1999 – 2002**

A varied history of industrialization, metropolitan expansion, population growth, and closed military bases are just some of the factors that have contributed to the creation of California's urban brownfields. An estimated 90,000 properties remain idle or underutilized because of real or perceived environmental contamination. These sites, in many cases former industrial sites but frequently, abandoned gas stations, are known as brownfields.

Governor Gray Davis is committed to cleaning up these properties, putting them back into productive use in order to stimulate redevelopment in urban cores, protect public health and the environment, provide jobs, and improve the quality of life in affected communities. The Administration is doing so through a variety of innovative programs, including:

- The **Cleanup Loans and Environmental Assistance for Neighborhoods Program (CLEAN)** that provides low interest loans and grants for investigation and cleanup of urban brownfield properties;
- The **Financial Assurance and Insurance for Redevelopment Program (FAIR)**, a new program that will provide affordable environmental insurance to brownfield developers and secured creditor coverage for lenders at brownfield projects;
- The **Underground Storage Tank Cleanup Fund** provides financial assistance to clean up leaking underground storage tank sites; and
- **Innovative regulatory tools** designed to adhere to California's high environmental standards yet be responsive to economic and other factors that influence brownfields development.

When industrial and commercial facilities are built on "greenfields," (land with no previous commercial or industrial use, including prime agricultural land) roads, sewers, schools, residences and other infrastructure must be developed, and new units of government must be created to levy the taxes to pay for them. Redundant infrastructure not only wastes scarce tax dollars, it adds to the burden on the environment. Redevelopment of brownfields represents an optimal alternative and is a critical factor in ensuring renewed prosperity in California.

Governor Davis and the California Environmental Protection Agency (Cal/EPA) have been in the forefront of efforts to address the brownfields challenge. According to Winston Hickox, Secretary of Cal/EPA, "The concept of brownfields cleanup illustrates that you cannot attain a healthy environment without economic vitality, and you cannot sustain economic growth without a healthy environment."

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Public agencies play a critical role in environmental management. However, the vast majority of California's brownfields will not be restored without participation by the private sector. Studies show that for every government dollar spent on brownfields cleanup, \$2.48 in private investment is generated. It has also been demonstrated that at 365 brownfields redevelopment projects completed in California, over 21,000 jobs were created and \$475 million in annual tax revenues generated.

Discovering mutually beneficial ways to involve investors in the future of these polluted properties is crucial. A truly effective brownfields program, in California or anywhere, requires a variety of tools to address the three primary concerns of potential developers: legal liability, regulatory compliance and the financial burden of investigation and cleanup. Cal/EPA is actively engaged in developing tools that can be used separately and in concert to encourage capital investment in blighted sites, not only to clean them up but return them to productive use.

Within Cal/EPA, the Department of Toxic Substances Control (DTSC), the State Water Resources Control Board (Water Board) and Regional Water Quality Control Boards (Regional Boards) are charged with cleaning up the broad universe of all contaminated properties throughout the state. These "traditional" programs have been addressing pollution from former industrial activities and leaking underground petroleum tanks for many years. Cal/EPA has also created or tailored many programs to specifically address brownfields.

The following information showcases the Davis Administration's achievements in returning contaminated properties to productive use.

### **State Brownfield Cleanup Incentives**

- **Urban Cleanup Initiative**

The Governor's Commission on the Twenty-First Century recommended \$250 million for brownfields infrastructure repairs. Governor Davis approved \$125 million in fiscal year 2000-01 to leverage private investment capital through strategic loans in urban core neighborhoods for brownfield site characterization, cleanup, and long-term insurance against ongoing liabilities. The Legislature ultimately appropriated \$85 million for this program. The Administration and Cal/EPA sponsored legislation (SB 667, Sher, Chapter 912, Statutes of 2000) to develop and implement programs to provide low interest loans and grants for investigation of brownfields, and low interest loans for cleanup of brownfields.

The Urban Cleanup Initiative was developed to catalyze broad economic growth in urban core neighborhoods by eliminating blighted properties that inhibit redevelopment, protect public health and the environment, and create both jobs and business development – while generating revenues to enable the public's investment to pay for itself. Only through a state program can the objectives of protecting public health and the environment – sound cleanup standards – and

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the objectives of the business community – certainty and decisiveness – be achieved. This Initiative places California at the forefront of economically strategic and environmentally responsible growth.

The major features of the Initiative are:

- Cleanup Loans and Environmental Assistance to Neighborhoods Program (CLEAN)

Implemented by Cal/EPA and DTSC, the program provides low interest loans to help owners, developers, schools, local governments and others accelerate the pace of cleanup and redevelopment of abandoned and underused urban properties.

The first component of the CLEAN Program offers loans of up to \$100,000 to conduct investigations of qualified urban brownfields. If a site is found to be so contaminated that redevelopment doesn't make economic sense, up to 75 percent of the loan amount can be forgiven.

The second component of the CLEAN Program offers low interest loans of up to \$2.5 million per site for cleanup and removal of hazardous materials at qualified urban properties where redevelopment is likely to boost property values, and enhance the economic viability, the environment, and the quality of life of a community. California is proud of its' tough environmental standards however; oftentimes property owners or potential developers are reluctant to investigate potential contamination at their properties for fear of any resultant liability. The CLEAN program encourages those who would otherwise mothball their properties to proceed with investigation and necessary cleanup work.

Another key feature of the CLEAN Program is that the state agency costs of overseeing the site investigations and cleanup activities are paid by the state, as long as state monies are available. In some cases these oversight costs can be substantial. This feature increases the attractiveness of the CLEAN Program.

Although the program is intended to complement existing site cleanup tools, this is the first major commitment of state financial resources to brownfields. Eastern states started investing in brownfields earlier because there was more of a need to address the combined environmental and economic conditions. The strength of the real estate market in California has historically made brownfield cleanup financially viable in many cases. But it's clear that in some urban areas, particularly communities with depressed land values and pressing economic needs, partnerships with programs such as CLEAN offer the best opportunity to return these sites to productive use.

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To date, 18 loan applications have been submitted and six loans—totaling \$5.2 million—have been approved:

<b>Brownfield Location</b>	<b>Loan Amount</b>	<b>Cleanup and Planned Redevelopment</b>
Downtown Los Angeles	\$1 million	Commercial, and possibly loft residences, at a former paint and printing ink manufacturing plant
Vacaville Redevelopment Agency	\$400,000	Revitalization of the downtown core with mixed use commercial and retail at the former site of a chrome plating shop
East Bay Habitat for Humanity, Inc.	\$425,000	20-24 single-family residences at a former salvage yard
Richmond Redevelopment Agency	\$1.9 million	Commercial, retail, residential, and public access/open space at a former Kaiser shipyard
Santa Fe Springs (Los Angeles County)	\$950,000	Commercial and industrial facilities at the site of a former chemical company
Murieta (Riverside County)	\$700,000	54 market-rate single-family homes at a former battery storage facility

*Note: Current economic conditions have necessitated a temporary cessation of funding for new loans. DTSC will continue overseeing current projects, servicing loans and aggressively pursuing additional funding options.*

○ Financial Assurance and Insurance for Redevelopment Program (FAIR)

The second part of Governor Davis' Urban Cleanup Initiative is the FAIR Program. Through it, Cal/EPA will endeavor to make environmental insurance coverage available and affordable to stimulate private investment in brownfield development.

Modeled after the successful Massachusetts program, the FAIR Program consists of two parts:

1. A pre-negotiated package of discounted environmental insurance products; and
2. Subsidies to offset the costs of premiums and deductibles, as funding is available.

▸ *Products to be Offered*

The FAIR Program will offer a suite of environmental insurance products designed to provide liability protections for brownfields developers and lenders that invest in brownfields. The products to be offered under FAIR include:

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- ✓ Pollution Legal Liability Insurance (to address unforeseen conditions and third party liability for property damage and personal injury);
  - ✓ Cost Overrun Insurance (to cover costs of cleanups that are over and above cleanup cost estimates); and
  - ✓ Secured Creditor Insurance (to cover loan default or foreclosure that occurs due to pollution conditions).
- *Selection of an Insurance Carrier*  
To implement FAIR, Cal/EPA and DTSC, in consultation with MGP Environmental Partners, LLC, will conduct workshops to develop a request for proposal to which interested, qualifying insurance companies are to respond. Through a competitive bidding process, the Secretary of Cal/EPA will select an insurance company or companies to provide affordable environmental insurance products to California developers and lenders.
- *Subsidies*  
To the extent that funds are available, FAIR is designed to provide subsidies to persons conducting response actions at eligible properties who purchase the prenegotiated environmental insurance products:
- ✓ Up to 50% of the cost of environmental insurance policy premiums;
  - ✓ Up to 80% of the self-insured retention amount of the cost overrun insurance policies (essentially, the policy's "deductible," or the amount that the person is obligated to pay before the insurance policy pays), up to a maximum of \$500,000.
- *Eligibility for Subsidies*  
Persons conducting response actions at brownfields and underutilized properties will be eligible to apply for FAIR subsidies.

*Note: Current economic conditions have made funding for subsidies temporarily unavailable. Cal/EPA and DTSC continue their efforts to provide FAIR Program subsidies.*

- **Underground Storage Tank Cleanup Fund**

The Underground Storage Tank Cleanup Fund was created in 1989 to provide a way for underground storage tank owners and operators to meet federal and state financial responsibility requirements. Implemented by the Water Board, the Fund assists in paying for costs to clean up contaminated soil and groundwater from leaking tanks, and also provides insurance coverage for third-party liability from leaking tanks. The program is funded through a per gallon storage fee, and currently receives over \$180 million annually. Eligible underground tank owners and operators may receive up to \$1.5 million per tank site.

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The Fund benefits a large number of small businesses and individuals by paying the unexpected and catastrophic costs that are caused by leaking tanks. Up to \$5 million per year of the fund is also available to Regional Boards and local agencies to clean up tank sites that require immediate action, tank sites that are abandoned, or tank sites where those responsible are unwilling or unable to conduct the necessary cleanup activities.

In administering the Fund, the Water Board prioritizes any claims that it receives, with the highest priority (Class A) reserved for residential tanks, Class B for small businesses, Class C for specified businesses, governmental agencies and nonprofit organizations, and Class D for all others. The Water Board updates its priority list monthly. Since the inception of the program, 4200 cleanups have been completed.

Since 1999, the Water Board has distributed over \$475 million from the fund to help clean up leaking underground storage tank sites (\$172.4 million to 4031 ongoing cleanups in 1999, \$127.8 million to 4446 ongoing cleanups in 2000, and \$175.1 million to 4758 ongoing cleanups in 2001). In that same time period, 2439 of those claims were brought to a close.

### **Department of Toxic Substances Control (DTSC)**

- **Voluntary Cleanup Program** – In the late 1980's, DTSC established a policy to address the needs of property owners who wanted regulatory oversight over the cleanup of low-threat sites, called walk-in sites. In 1993, DTSC reorganized its walk-in program, and created its Voluntary Cleanup Program. The Voluntary Cleanup Program was designed to respond to lower priority sites. Under the Voluntary Cleanup Program, DTSC enters site-specific agreements with project proponents for DTSC oversight of site assessment, investigation, and/or removal or remediation activities, and the project proponents agree to pay DTSC's reasonable costs for those services.

Since 1999, 48 site cleanups have been completed under the Voluntary Cleanup Program.

- **Expedited Remedial Action Program** –The Expedited Remedial Action Program is intended to accelerate the cleanup process by restructuring liability based on fair and equitable standards; eligibility for the state to pay the "orphan share" of the cleanup costs; providing indemnification protection through a covenant not to sue; permitting risk-based cleanup based on the ultimate use of the site; streamlining the cleanup process; and establishing a dispute resolution process. 17 sites have requested participation in this pilot program.

Since 1999, 3 cleanups have been completed under the program, reimbursing a total of \$1 million in orphan shares (1 in 1999, with over \$400K in orphan share

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reimbursement, and 2 in 2001, with over \$500K in orphan share reimbursement). Three additional cleanups are expected to be completed this year, with an additional \$500K in orphan share identified.

- **Prospective Purchaser Agreements** – DTSC developed its “Prospective Purchaser Policy” to remove or lessen the liability that prospective purchasers face when contemplating purchasing or developing brownfield sites. Under the terms of an agreement between DTSC and a prospective purchaser, DTSC commits to not pursue enforcement against prospective purchasers, tenants or lessors who become site owners or operators if they are not responsible for the contamination, they do not contribute to the contamination, their activities at the site do not pose health risks to persons on the site, they allow access for cleanup activities, they are not illegally disposing at the site, and there are responsible parties who are willing to clean up the site.

Since 1999, DTSC has entered 4 agreements with prospective purchasers.

- **Private Site Management Program** - This program, when implemented, will authorize qualified private individuals, rather than state regulatory agency staff, to oversee site assessments and cleanups at less complex hazardous substances sites. DTSC is currently developing regulations to implement this program, scheduled to begin in late 2002.
- **Property Over Contaminated Ground Water** - Under this policy, owners of property over groundwater contaminated by others on adjacent or nearby properties are not subject to enforcement or cost recovery action provided their property is not the source of the contamination.
- **Partial Site Cleanup** - This policy allows qualified sites to be subdivided and "clean parcel letters" issued before cleanup is completed, to facilitate the revitalization of areas that are ready to be developed.
- **Preliminary Assessment/Site Investigation Grant** – DTSC, through a cooperative agreement with U.S.EPA, conducts preliminary assessments and site investigations to evaluate sites that pose a potential risk to public health and the environment. The purpose of the program is to provide environmental information to either dispel concerns about sites, or to confirm that contamination is present. The sites that are the focus of these efforts have been brought to either agency's attention by others (local health departments, redevelopment agencies or private citizens) or as part of a list of backlogged sites that require additional evaluation.

Since 1999, DTSC has conducted preliminary assessment and site investigation work on over 100 sites in California, spending over \$1.6 million dollars (\$505,000

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on 36 sites in 1999, \$517,000 on 37 sites in 2000, and nearly \$600,000 on 107 sites in 2001).

- **Military Facilities** - Since 1988, the Department of Defense has closed 29 major California military bases and 4 smaller installations. These closures resulted in direct and indirect losses of 200,000 jobs. Conversely, the closures will ultimately make 77,269 acres of property available for redevelopment. In addition to the closed bases, there are 107 military installations that remain open and 1,087 formerly used defense sites. Standing in the way of redevelopment of the closed bases and formerly used defense sites is environmental contamination – most of these military bases and formerly used defense sites contain extensive areas of contamination.

Since 1999, 8 areas of 5 military bases have been cleaned up, as well as the certification of one full installation (1 in 1999, 4 in 2000, and 4 in 2001).

- *Transfer of “Clean Parcels”* - In addition to areas that are contaminated, other areas of closed bases are either not contaminated at all, or are considered safe to be used for their current or proposed uses. Reuse of these areas can occur as soon as an interested user obtains the necessary approvals from the appropriate city or county government.

Since January 1999, 9,594 acres have been transferred from various branches of the military to local reuse authorities (105 acres in 1999, 2,509 in 2000, and 6,980 in 2001).

- *Early Transfers* - In most cases, all environmental cleanup actions necessary to protect human health and the environment must be taken before federal property can be transferred. However, the Governor may approve earlier transfers of federal property, especially if some other entity, such as a reuse authority, assumes responsibility for the cleanup.

Since January 1999, 1144 acres of federal property have been transferred “early.” Another 688 acres were approved for early transfer in March 2002.

### **State Water Resources Control Board / Regional Water Quality Control Boards**

- **Spills, Leaks, Investigations, and Cleanup Program** - The Spills, Leaks, Investigation and Cleanup Program addresses site investigation and corrective action at sites not overseen by the Regional Boards’ other programs. This program covers all types of pollutants (e.g. solvents, petroleum fuels, and heavy metals) and all media (soil, surface water, and groundwater).

Since 1999, the Spills, Leaks, Investigation and Cleanup Program has completed 202 site cleanups.

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- **(Polanco) Redevelopment Program** - Redevelopment agencies requesting approval of their cleanup plans under the provisions of the Polanco Act are required to reimburse DTSC's and the Regional Boards' oversight costs.

Since 1999, the Regional Boards have overseen and received reimbursement for 7 redevelopment agency cleanups (1 in 1999 and 6 in 2000), and are currently involved in 8 redevelopment agency cleanups.

- **Aboveground Tank Program** - The Aboveground Tank Program governs the operation and maintenance of aboveground storage tanks, as well as the response to leaks and spills and their resulting environmental contamination.

Since 1999, 15 aboveground storage tank sites have been cleaned up.

- **Underground Storage Tank Program** – The Underground Storage Tank Program governs the operation and maintenance of underground storage tanks, as well as the response to leaks and spills and their resulting environmental contamination. There are 42,513 operating petroleum underground storage tanks and 4,478 operating hazardous substance underground storage tanks in California.

Since its inception, the Underground Storage Tank Program has cleaned up almost 22,500 leaking underground storage tank sites. In addition, there are ongoing cleanups at 15,911 leaking underground storage tanks sites (with approximately 100 new cases reported each year).

### **Office of the Secretary**

- **Assistant Secretary for Brownfields** - In acknowledgement of the importance of the brownfields issue and the need for a coordination of all of Cal/EPA's brownfields efforts, Secretary Hickox recently designated an Assistant Secretary for Brownfields, Mr. Rick Brausch. Mr. Brausch is the contact for those interested in California's brownfields activities. He can be reached at (916) 445-3131, or at [rbrausch@calepa.ca.gov](mailto:rbrausch@calepa.ca.gov).
- **Brownfields Working Group** - Secretary Hickox has also taken steps to create a statewide brownfield partnership, called the "Brownfields Working Group," to establish a forum where impediments to brownfield cleanup and development can be identified and where incentives to brownfields revitalization can be identified and developed. The Brownfields Working Group is made up of state, local and federal agencies, as well as developer, business, environmental and community interests.

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- **State Brownfields Website** - Cal/EPA is in the process of developing Internet available Web sites and information that any brownfield project proponent can use to access information and resources that are necessary to investigate, clean up, and develop brownfield sites in California.
- **Coordination and Streamlining** – The “Unified Agency Review Process” was enacted to limit inconsistency, redundancy and confusion that are often the result of the variety of federal, state and local agencies that can have regulatory jurisdiction over cleanups. A Site Designation Committee, chaired by Cal/EPA, may designate a single administering agency to oversee response actions for a site. Moreover, the designation of an administering agency provides for a “certificate of completion” to be issued at the end of the cleanup process that certifies satisfaction of, and compliance with, all of the cleanup requirements of the various California regulatory agencies. Since 1999, Cal/EPA has designated lead agencies for 19 sites.

Cal/EPA has also been participating in an ongoing effort by DTSC, the Water Board and Regional Boards to examine the differences between their cleanup programs and the resulting cleanups, to assess the consequences, if any, of those differences, and to improve the overall working relationship between the organizations.

### **Other Brownfields Efforts in California**

- **Local Agency Brownfield Cleanup Program** – The *California Land Environmental Restoration and Reuse Act* (SB 32, Escutia, Chapter 764, Statutes of 2001) establishes a local agency hazardous materials cleanup program to help return brownfields to productive uses. The Governor’s Budget includes \$350,000 for implementation activities under the Act.
  - Screening Values –Cal/EPA organizations will develop advisory “screening values” for 55 hazardous substances that are typically found at brownfield sites. These values will serve as reference numbers to help developers and local governments estimate the costs and extent of cleanup of contaminated sites, providing valuable information in their development decisions. Cal/EPA’s Scientific Peer Review Program will peer review the screening numbers that are developed.
  - Pilot Program – DTSC will conduct a pilot program in Southern California to evaluate how screening values are used in cleanup decision-making at brownfields, and with that information guide the development of its own screening values.

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- Regulatory Oversight – Either DTSC or the Regional Boards will oversee cleanups that are conducted under this program (except in certain circumstances where local agencies may oversee the cleanups). Cal/EPA will develop guidelines to describe the process that will be used to determine which will be the oversight agency.
- Information on Cleanup Processes – To assist in better understanding the processes that govern cleanup decisions, Cal/EPA will prepare and disseminate information that details the cleanup processes of both DTSC and the Regional Boards.
- **Polanco Act** – The Polanco Redevelopment Act (AB 3193, Chapter 1113, Statutes of 1990, Polanco), part of the Community Redevelopment Act, was enacted to assist redevelopment agencies in responding to brownfield properties in their redevelopment areas. It prescribes processes for redevelopment agencies to follow when cleaning up a hazardous substance release in a redevelopment project area. It also provides immunity from liability for redevelopment agencies and subsequent property purchasers for sites cleaned up under a cleanup plan approved by DTSC or a Regional Board. The Polanco Redevelopment Act has become a widely used tool by redevelopment agencies to guide and pursue redevelopment of brownfields.
- **Local Site Cleanup Program** – Under this program (enacted by SB 1248, O'Connell, Chapter 671, Statutes of 1995), local health agencies are authorized to supervise cleanups, set cleanup goals and provide certification of cleanup completion on limited types of sites (small, less complex, lower priority, i.e., most brownfields sites).
- **U.S. Environmental Protection Agency (U.S. EPA) Pilots and Demonstrations** – California has been participating in a variety of U.S.EPA-sponsored brownfields initiatives, including Assessment Demonstration pilots, Brownfields Cleanup Revolving Loan Fund pilots, the USTfields pilot, Brownfields Environmental Job Training and Development pilots, the Resource Conservation & Recovery Act (RCRA) Brownfields Initiative, and the Brownfields Targeted Site Assessment Program.

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